



SICK LEAVE

Directive 4-103

Date of Issue: July 2013 Amends/Cancels: Chapter IV Sec 4

I. PURPOSE

The purpose of this Directive is to establish written policy governing sick leave.

II. POLICY

The Department of General Services Maryland Capitol Police (DGS-MCP) believes the State's provision of paid sick leave is a valuable benefit to the employee and the Department. It enables an employee to maintain a constant income when they are temporarily prevented from working due to a serious health condition. It also allows DGS-MCP to continue the employment of its most essential resource – competent, trained and dedicated employees.

An unmonitored program of paid sick leave, however, can lead to abuse. Abuse could eventually result in a significant reduction or elimination of the benefit, which could harm both the employee and DGS-MCP. DGS-MCP, therefore, supports a policy to prevent the abuse or potential abuse of sick leave.

III PROCEDURES

A. Eligibility

In accordance with State law, employees are entitled to sick leave with pay:

1. for illness or disability of the employee;
2. for death, illness, or disability of a member of the employee's immediate family;
3. following the birth of the employee's child;
4. when a child is placed with the employee for adoption; or
5. for a medical appointment of the employee or a member of the employee's immediate family.

"Immediate family" is defined as:

- the employee's spouse,
- the employee's children including foster and stepchildren,
- parents, stepparents, or foster parents of the employee or spouse, or others who took the place of parents,
- legal guardians of the employee or spouse,
- brothers and sisters of the employee or spouse,

- grandparents and grandchildren of the employee or spouse, and
- other relatives living as members of the employee's household.

B. Notification

1. Should an employee be absent from work due to a serious health condition, the employee must personally notify their immediate supervisor, or the on duty shift supervisor of their assigned Detachment, that the employee will be absent and the probable date of their return to work. Such notice must be made at least one hour before the start of their scheduled shift.
2. If the employee does not know how long he or she may be absent, the supervisor or the on duty shift supervisor of their assigned Detachment, must be notified *each day* of the continued absence within the time frames described above.
3. When it is not possible for the employee to personally contact the supervisor due to *extreme emergency circumstances* someone else may call on their behalf.

C. Certificate of Illness for Absences for Five or More Consecutive Days

1. State law provides that an employee may not be paid for any absence due to personal illness of five or more consecutive workdays unless the employee provides the supervisor with an **original medical certificate, signed personally** by a licensed health care provider, which authenticates the absence. The documentation must include the period of absence, verify the employee is unable to work and provide an expected date of return to work. Statements such as "John Doe has been under my care from _____ to _____." are not acceptable for this purpose. A positive statement documenting the period of absence is required, e.g., "John Doe has been under my care and has been unable to work from _____ to _____." This documentation will also be required for an absence of five or more consecutive workdays for the illness of an immediate family member.

The certificate required by this section shall be signed by one of the following:

1. A medical doctor who is authorized to practice medicine or surgery by the state in which the doctor practices.
2. If authorized to practice in a state and performing within the scope of that authority:
 - a. a chiropractor;
 - b. a clinical psychologist;
 - c. a dentist;
 - d. a licensed certified social worker – clinical;
 - e. a nurse midwife;
 - f. a nurse practitioner;

- g. an oral surgeon;
- h. an optometrist;
- i. a physical therapist;
- j. a podiatrist;

3. An accredited Christian Science practitioner; or

4. A health care provider as defined by the federal Family Medical Leave Act.

D. Certificate of Illness for Absences of less than five consecutive days

The employer may require an employee to submit documentation of sick leave use on the following conditions:

1. When an employee has a consistent pattern of maintaining a zero or near zero sick leave balance without documentation of the need for such relatively high utilization; or
2. When an employee has six or more occurrences of undocumented sick leave usage within a twelve month period. Sick leave use that is certified in accordance with this policy shall not be considered as an occurrence.
3. When an illness of one or more days occurs during a period of approved annual or personal leave, sick leave will be granted provided the employee provides appropriate medical documentation to authenticate the period of illness.

Note that after the first instance of an employee being absent for more than four consecutive days without documentation, the employer may place the employee on notice that future absences of more than three days, within a rolling twelve month period, will require documentation.

E. Procedures for Certification Requirement

Prior to imposing a requirement on an employee for documentation of sick leave use, the employer shall orally counsel the employee that future undocumented absences may trigger a requirement for certification of future instances of sick leave.

If the employee has another undocumented absence after such counseling, the Employer may then put the employee on written notice that he/she must certify all sick leave usage for the next six (6) months if the undocumented absences accumulate in accordance with Section 4.

Although a requirement for certification is not a disciplinary action, an employee may grieve allegations of misapplication of this procedure.

F. Chronic Conditions

1. Employees who suffer from chronic or recurring illnesses or disabling conditions that do not require a visit to a health care provider each time the condition is manifested, shall not be required to provide certification for each absence, provided that a general certification is provided, unless the absence is for five or more consecutive days. Such frequent absences also shall not be used as the basis for a certification requirement. Unless the employee has a condition identified as a permanent disabling condition, the employer may require certification and follow-up reports from a health care provider no more frequently than every six months of the continued existence of the chronic condition.
2. An employee on a lengthy absence due to illness must submit medical documentation as described above at least once a month (every 20 workdays) unless the documentation first submitted specifically states a return to work date. Such documentation must be received by the supervisor within five workdays of the first day of absence.
3. Whenever an employee is absent for an excessive amount of time, the supervisor, through the Personnel Division, may refer the employee to the State Medical Director for the purpose of determining whether the employee has a condition which would prevent proper performance of his or her duties. Such a request must be accompanied by a listing of the undocumented absences and an essential duties checklist completed by the employee's physician.
4. In situations where there is also a deterioration of the employee's work performance, a referral to the Employee Assistance Program may be accomplished in the same manner. This request must be accompanied by a detailed statement of the observed behaviors which are affecting work performance.
5. The supervisor may also request investigation by the State Medical Director of the medical condition of an employee's immediate family member if the use of sick leave for this purpose does not appear to be in proportion of the severity of the family member's illness. The purpose of the investigation will be to determine whether the employee's absences are justified.

G. Documentation

For the purposes of absences of less than five consecutive days, acceptable documentation shall consist of the following:

- A. A certificate from a health care provider that the employee (or member of the employee's immediate family) visited the office and/or the employee was unavailable for duty for the reasons specified in section A on the day or dates of absence. For absences of four hours or less, at the employee's option, he or she may submit a copy of the universal health insurance claim form or similar document from the health care provider's office showing the name of the provider, the date of

treatment and the address and telephone number of the provider.

- B. An employee who works less than his/her full work day due to having to provide care to the employee's child or member of his/her immediate family shall not be required to provide certification from an acceptable health care provider unless management has a basis to believe sick leave is being used for a purpose other than described in section A above. Sick leave use in such circumstances shall not be counted as an occurrence under section D.

H. Disciplinary Actions

The employer may take appropriate disciplinary action against an employee for using sick leave for purposes other than described in law, regulation, this policy, or an applicable Memorandum of Understanding (MOU) for failing to properly notify the employer of the use of sick leave; or the failure to provide appropriate documentation when properly required to do so.

The employer may not penalize an employee with regard to scheduling, overtime eligibility, performance evaluations or other right or benefit for sick leave usage, for being subject to a documentation requirement.

This does not preclude appropriate disciplinary action for use of sick leave for purposes other than described in Section A.